

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SETH LOGAN,

Plaintiff,  
-v-  
9:18-CV-291  
(DNH/ML)

SUPERINTENDENT GRAHAM, Auburn  
Correctional Facility; C.O. PFLUEGER,  
Auburn Correctional Facility; OFFICER  
SCOTT JONES, Auburn Correctional  
Facility, formerly known as C.O. Smith;  
and C.O. M. GOULD, Auburn Correctional  
Facility,

Defendants.

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APPEARANCES:

SETH LOGAN  
Plaintiff pro se  
83 Edson Street, Lower  
Buffalo, NY 14210

HON. LETITIA JAMES  
Attorney General for the State of New York  
Attorney for Defendants  
300 South State Street  
Syracuse, NY 13202

AIMEE COWAN, ESQ.  
Ass't Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Seth Logan brought this civil rights action pursuant to 42 U.S.C. § 1983. On March 27, 2019, the Honorable David E. Peebles, United States Magistrate

Judge, advised by Report-Recommendation that defendants' motion to dismiss pursuant to Federal Rule of Civil Procedure 41(b) be granted; that plaintiff's complaint be dismissed in its entirety; and that defendants' motion for summary judgment be denied as moot. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is rejected. See 28 U.S.C. § 636(b)(1).

In his Report-Recommendation, Magistrate Judge Peebles recommended granting defendants' request to dismiss the case due to plaintiff's failure to update his address with the Court. The Report-Recommendation carefully details plaintiff's failure to comply with the Court rules requiring him to promptly notify, in writing, the Clerk's Office and all parties or their counsel of any change in his address. However, shortly after the issuance of the Report-Recommendation, on April 15, 2019, plaintiff notified the Court, in writing, of his change of address. Though he was provided an extension of time in which to do so, he has not filed any objections to the Report-Recommendation. However, in light of plaintiff's pro se status and change of address, his complaint will not be dismissed pursuant to Federal Rule of Civil Procedure 41(b) at this time.

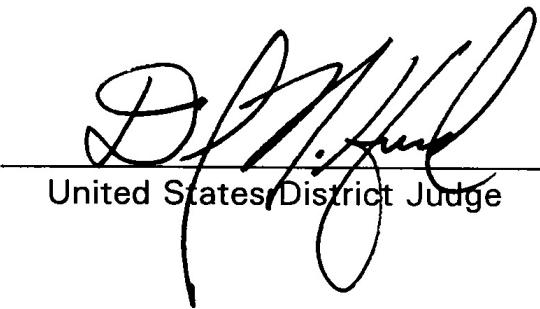
Defendants' request to dismiss pursuant to Rule 41(b) will be denied and this matter will instead be referred back to Magistrate Judge Peebles for consideration, on the merits, of defendants' motion for summary judgment pursuant to Federal Rule of Civil Procedure 56(a).

Therefore, it is

ORDERED that

1. Defendants' motion to dismiss, Dkt. 27, is DENIED; and

2. This matter is referred to Magistrate Judge Miroslav Lovric for consideration of defendants' motion for summary judgment, Dkt. 28.



United States District Judge

Dated: July 3, 2019  
Utica, New York.